

Claims 19-32 have been deleted and replaced with new claims 33-40. No new matter has been added as a result of the addition of these claims.

Rejection of Claims Under 35 U.S.C. Section 112, Second Paragraph

Claims 19-32 are rejected under 35 U.S.C. Section 112, second paragraph, as being indefinite. More specifically, the Examiner stated that the claims were vague, indefinite, misdescriptive and inaccurate for the following reasons:

- (a) the recitation of "equivalent degenerate coding sequences thereof" was vague and indefinite because the reading frame was not specified;
- (b) the recitation of "recombinant techniques" is vague and indefinite because there is no art recognized set of techniques that is regarded as "recombinant techniques";
- (c) the recitation of "synthetic techniques" is vague and indefinite because there is no art recognized set of techniques that is regarded as synthetic techniques;
- (d) the recitation of "an amino acid sequence" in claim 27 was vague and indefinite because it was not clear whether the claim is limited to polynucleotides that encode the entire amino acid sequence of SEQ ID NO:41 or only a portion of it; and
- (e) the recitation of "amino acid sequence of SED ID NO:30 in claim 30 was misdescriptive because SEQ ID NO:20 is a nucleotide sequence, not an amino acid sequence.

Claims 19-32 have been deleted and replaced with new claims 33-40. Applicants have taken this rejection into consideration in drafting new claims 33-40. Thereupon, Applicants submit that this rejection has now been rendered moot and should be withdrawn.

Rejection of Claims under 35 U.S.C. Sections 102 and 103

Claims 19-32 are rejected under 35 U.S.C. Section 102(b) as being clearly anticipated by Yu et al. (WO 96/39419). More specifically, the Examiner states that Yu

et al. discloses nucleotide sequences that contain SEQ ID NOS: 13 and 15. Claims 19-32 have been deleted and replaced with new claims 33-40. To the extent that it still applies, Applicants will now address this rejection with respect to new claims 33-40. More specifically, SEQ ID NOS:13 and 15 have not been included in new claims 33-40, therefore this rejection is not applicable to these new claims and should be withdrawn.

Claims 19-32 are rejected under 35 U.S.C. Section 102(e) as being anticipated by Yu et al. (U.S. Patent 5,733,748). More specifically, Yu et al. discloses sequences *encoded by* SEQ ID NOS:12 and 16 and a sequence 100% identical to SEQ ID NO:41. Claims 19-32 have been deleted and replaced with new claims 33-40. To the extent that it still applies, Applicants will now address this rejection with respect to new claims 33-40.

The Examiner states that Yu et al. discloses sequences *encoded by* SEQ ID NOS:12 and 16. The key word here is *encoded by*. Yu et al. simply do not disclose SEQ ID NOS:12 and 16. Anticipation requires that each and every claim element be disclosed by a prior art reference. Yu et al. simply fail to do this with respect to SEQ ID NOS: 12 and 16.

With respect to SEQ ID NO:41, the Examiner states that Yu et al. disclose a sequence that is 100% identical to SEQ ID NO:41. SEQ ID NO:41 is 914 amino acids in length. The sequence disclosed in Yu et al. is only 228 amino acids in length. Therefore, Yu et al. does not disclose each and every element of the claimed invention.

Thereupon, in view of the aforementioned arguments, Applicants submit that the rejections of claims 19-32 as anticipated by Yu et al. has now been rendered moot and should be withdrawn.

Claims 19-22 and 25-32 are rejected under 35 U.S.C. Section 102(b) as being anticipated by Adams et al. The Examiner stated that Adams et al. discloses a polynucleotide that contains SEQ ID NO:15. Claims 19-32 have been deleted and

replaced with new claims 33-40. To the extent that it still applies, Applicants will now address this rejection with respect to new claims 33-40. More specifically, SEQ ID NO: 15 has not been included in new claims 33-40, therefore this rejection is not applicable to these new claims and should be withdrawn.

Claims 23 and 24 are rejected under 35 U.S.C. Section 103(a) as being unpatentable over Adams et al. The Examiner states that "Applicants acknowledge expression vectors, host cells, and methods of heterologous gene expression to be old (instant application at pages 35-40). It would have been obvious for one of ordinary skill in the art at the time the invention was made to express the polynucleotides of Adams et al. in the admittedly old manner in order to produce large amounts of sequence specific polypeptides." Applicants respectfully traverse this rejection.

Claims 19-32 have been deleted and replaced with new claims 33-40. While expression vectors, host cells and methods of heterologous gene expression are well known to those skilled in the art, the prior art simply does not disclose or suggest the expression vectors, host cells and methods of heterologous gene expression employing the specific polynucleotides of the present invention. Just because expression vectors, host cells and methods of heterologous gene expression were known to those skilled in the art does not mean that recombinant expressions systems containing the specific polynucleotides of the present invention, which were previously unknown, are obvious. Therefore, in view of the aforementioned arguments, Applicants submit that this rejection should be withdrawn.

Applicants submit that the claims are in condition for allowance.

Should the Examiner have any questions concerning the above, she is respectfully requested to contact the undersigned at the telephone number listed below. If any

additional fees are incurred as a result of the filing of this paper, authorization is given to charge deposit account no. 01-0025.



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